

Department of the Air Force, DoD

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each a foreign claims commission and have delegated authority to:

(i) Settle claims for payment of \$50,000 or less.

(ii) Deny a claim in any amount.

(4) The SJAs of PACAF, USAFE, 9AF (for CENTCOM) and AFSPACECOM (for Greenland and Canada) are each a foreign claims commission and have delegated authority to approve claims for payment arising within their geographic area of responsibility for \$50,000 or less, or deny claims of \$50,000 or less.

(5) The SJAs of Numbered Air Forces in PACAF and USAFE; the SJA of HQ TUSLOG; the SJA of 12AF (for South America); and the SJAs of Lajes AB, Azores, Patrick AFB, FL, and Howard AFB, Panama are each a foreign claims commission and have delegated authority to:

(i) Recommend payment in any amount.

(ii) Settle claims for payment of \$25,000 or less.

(iii) Deny claims for \$50,000 or less.

(6) The SJAs of each Air Force base, station and fixed installation in PACAF, USAFE, and CENTCOM, are each a foreign claims commission and have delegated authority to:

(i) Recommend payment in any amount.

(ii) Settle claims for payment of \$10,000 or less.

(iii) Deny claims for \$25,000 or less.

(b) *Authority to appoint FCCs.* (1) The Chief, Claims and Tort Litigation Staff, has the delegated authority to appoint a judge advocate or civilian attorney as a FCC and to redelegate all or a part of his or her settlement authority to that FCC.

(2) A settlement authority appointed as a FCC in paragraph (a) of this section may appoint one or more subordinate judge advocates or civilian attorneys as FCCs, and may redelegate all or part of that settlement authority to those FCCs, in writing. Every FCC must have authority to settle claims for at least \$10,000.

(c) *Authority to reduce, withdraw, or restore settlement authority.* Any superior settlement authority may reduce, withdraw, or restore delegated authority, in writing, except no one may re-

duce or withdraw the authority of a FCC to settle claims for \$10,000 or less.

(d) *Settlement negotiations.* A settlement authority may settle a claim in any sum within its settlement authority, regardless of the amount claimed. Send uncompromised claims in excess of the delegated authority through claims channels to the level with settlement authority. Unsuccessful negotiations at one level do not bind higher authority.

(e) Special exceptions. Do not settle claims for medical malpractice without HQ USAF/JACC approval.

[55 FR 2809, Jan. 29, 1990, as amended at 55 FR 32076, Aug. 7, 1990; 56 FR 1574, Jan. 16, 1991]

§ 842.58 Filing a claim.

(a) *How and when filed.* A claim is filed when a federal agency receives from a claimant or authorized agent a properly completed SF 95 or other signed and written demand for money damages in a sum certain. A claim belonging to another agency is promptly transferred to the appropriate agency.

(b) *Amending a claim.* A claimant may amend a claim at any time prior to final action. An amendment must be in writing and signed by the claimant or authorized agent.

§ 842.59 Advance payments.

Subpart Q outlines procedures for advance payments.

§ 842.60 Statute of limitations.

(a) A claim must be filed in writing within 2 years after it accrues. It accrues when the claimant discovers or reasonably should have discovered the existence of the act that resulted in the claimed loss or injury.

(b) In computing the statutory time period, the day of the incident is excluded and the day the claim was filed is included.

(c) War or armed conflict does not toll the statute of limitations.

§ 842.61 Who may file a claim.

(a) Owners of the property or their authorized agents for property damage.

(b) Injured persons or other authorized agents for personal injury.

(c) Executors or administrators of a decedent's estate, or any other person

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legally entitled to do so under applicable local law, for an individual's death.

(d) Authorized agents (including the claimant's attorney) must show their title or legal capacity and present evidence of authority to present the claim.

§ 842.62 Who are proper claimants.

Claimants include inhabitants of a foreign country who are:

- (a) Foreign nationals.
- (b) US nationals, unless they reside there primarily because they are:
 - (1) Employed directly by the United States.
 - (2) Employed by a US civilian contractor to further performance of a contract with the United States.
 - (3) Sponsored by or accompanying someone employed as described in § 842.62(b) (1) or (2) of this part.
- (c) US corporations with a place of business in the country in which the claim arose.
- (d) Foreign governments and their political subdivisions, including a municipal and prefectural government.
- (e) Foreign companies and business entities.

§ 842.63 Who are not proper claimants.

Persons who are not proper claimants include:

- (a) Insurers and other subrogees.
- (b) Dependents accompanying US military and US national civilian employees.
- (c) Foreign military personnel suffering property damage, personal injury, or death from a joint military mission with the United States or from conduct of a US military member or employee acting in the scope of employment unless an international agreement specifically provides for recovery.
- (d) Civilian employees of the United States, including local inhabitants, injured in the scope of their employment.
- (e) National governments and their political subdivisions engaging in war or armed conflict with the United States or its allies.
- (f) A national or nationally controlled corporation of a country engaging in war or armed conflict with the United States or its allies, unless the FCC or local military commander de-

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termines the claimant is friendly with the United States.

§ 842.64 Payment criteria.

The following criteria is considered before determining liability.

(a) The incident causing the damage or injury must occur outside the United States. It must be caused by noncombatant activities of the US Armed Forces or by civilian employees or military members of the Armed Forces.

(b) Negligence is not a prerequisite.

(c) Scope of employment is considered in the following situations.

(1) It is a prerequisite to US responsibility if the employee causing the damage or injury is a local inhabitant, a prisoner of war, or an interned enemy alien. These persons are "employees" within the meaning of the Foreign Claims Act (FCA) only when in the service of the United States. Ordinarily, a slight deviation as to time or place does not constitute a departure from the scope of employment. The purpose of the activity and whether it furthers the general interest of the United States is considered. If the claim arose from the operation or use of a US Armed Forces vehicle or other equipment by such a person, pay it provided local law imposes liability on the owner of the vehicle or other equipment in the circumstances involved.

(2) It is immaterial when the claim arises from the acts or omissions of any US Armed Forces member or employee not listed in § 842.64(c)(1) of this part. The Act imposes responsibility on the United States when it places a US citizen or non-US citizen employee in a position to cause the injury or damage. If the cause is a criminal act clearly outside the scope of employment, ordinarily pay the claim and consider disciplinary action against the offender.

§ 842.65 Claims not payable.

A claim is not payable when it:

- (a) Has been paid or denied by a competent tribunal under the North Atlantic Treaty Organization (NATO), Status of Forces Agreement (SOFA), or any similar SOFA or treaty.
- (b) Is purely contractual in nature.